

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed December 14, 2004. Reconsideration and allowance of the application and presently pending claims 1-22, as amended, are respectfully requested.

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 1-22 remain pending in the present application. More specifically, claims 1, 8, 10 and 17 are directly amended and claims 21-22 are added. These amendments are specifically described hereinafter. It is believed that the foregoing amendments and additions add no new matter to the present application.

2. Response to Rejection of Claims Under 35 U.S.C. §102(b) by *Selker*

In the Office Action, claims 1-15 and 17-20 stand rejected under 35 U.S.C. §102(b) as allegedly being unpatentable by *Selker* (U.S. Patent 5,777,704), hereinafter *Selker*. For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

a. Independent Claims 1, 8, 10, 13 and 17

Applicant respectfully submits that independent claims 1, 8, 10, 13 and 17 are allowable for at least the reason that *Selker* does not disclose, teach, or suggest the feature of “a display shield that is oriented in a first position “covering the display” as recited in claims 1, 13 and 17, or, “covering the front of the display” as recited in claims 8 and 10.

The Office Action alleges that *Selker* discloses that the “display shield may be selectively oriented, in at least a first position covering the display (figure 2, from behind) ...” Applicant respectfully refers the Examiner to the *Selker* Specification that identifies the LCD 209, the cover 201 and the reflective surface 203. In *Selker* figure 2, the *Selker* cover 201 is behind the LCD 209 (which corresponds to the display recited in claims 1, 8, 10, 13 and 17) and accordingly, the *Selker* cover 201 is not “covering the display” (the *Selker* LCD 209) as recited in independent claims 1, 8, 10, 13 and 17.

Furthermore, none of the *Selker* figures disclose any orientation of the cover 201 which covers the LCD 209. Since *Selker* does not disclose “covering the display”, *Selker* does not anticipate claims 1, 8, 10, 13 and 17, and the rejection should be withdrawn for this reason alone.

b. Additional Arguments for Allowability of Claim 1

Applicant respectfully submits that independent claim 1, as amended, is allowable for at least the reason that *Selker* does not disclose, teach, or suggest the feature of “an image capture device body” or the feature of “a display enclosure outwardly protruding from the image capture device body” as recited in claim 1. At most, *Selker* discloses “an LCD-Based Notebook Computer” (Title, figures and throughout the *Selker* Specification). Thus, *Selker* does not anticipate claim 1, and the rejection should be withdrawn for at least this reason alone.

c. Additional Arguments for Allowability of Claims 8 and 10

Applicant respectfully submits that independent claims 8 or 10, as amended, are allowable for at least the reason that *Selker* does not disclose, teach, or suggest the feature of “orienting the display shield in a third position ... to be substantially adjacent to and substantially parallel to a back of the display enclosure” as recited in claims 8 and 10. At most, and as alleged in the Office Action, that the “display shield may be selectively oriented ... from behind” as illustrated in *Selker* figure 2. Thus, *Selker* does not anticipate claims 8 or 10, and the rejection should be withdrawn for at least this reason alone.

d. Claims 2-7, 9, 11-12, 14-15 and 18-20

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-7 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-7 contain all features/elements of independent claim 1. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to these claims should be withdrawn.

Similarly, independent claims 8, 10, 13 and 17 are allowable over the cited art of record, dependent claims 9, 11-12, 14-15 and 18-20 (which depend from independent claims 8, 10, 13 and 17, respectively) are allowable as a matter of law for at least the

reason that the dependent claims 9, 11-12, 14-15 and 18-20 contain all features/elements of their respective independent base claim.

3. Response to Rejection of Claims Under 35 U.S.C. §102(b) by *Tao*

In the Office Action, claims 1, 5-11, 13 and 15-19 stand rejected under 35 U.S.C. §102(b) as allegedly being unpatentable by *Tao* (U.S. Patent 5,717,566), hereinafter *Tao*. For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

a. Independent Claim 13

Applicant respectfully notes that although the section header at page 5 of the Office Action which indicates that claim 13 is rejected under *Tao*, claim 13 is not later expressly rejected under *Tao*. Accordingly, Applicant assumes that the inclusion of claim 13 in the section header at page 5 of the Office Action is merely a typographical error. Furthermore, upon closer inspection of *Tao*, it is clear that *Tao* does not disclose, teach, or suggest the feature of “a retracted position locating the display shield *behind* the display” as recited in claim 13 (emphasis added). Accordingly, Applicant believes that it would not be possible to properly reject claim 13 under 35 U.S.C. §102(b) using *Tao*. (If the Applicant’s assumption above is incorrect, Applicant requests that the Examiner clarify the rejection in the next Office Action, or alternatively, revise the present Office Action and provide an extended time period for response to the revised Office Action.)

b. Independent Claims 1, 8, 10 and 17

Applicant respectfully submits that independent claims 1, 8, 10 and 17 are allowable for at least the reason that *Tao* does not disclose, teach, or suggest the feature of a display shield that is oriented in a third position “behind the display” as recited in claims 1 and 17, or, “orienting the display enclosure to be substantially adjacent to and substantially parallel to a back of the display enclosure” as recited in claims 8 and 10.

The Office Action alleges that *Tao* discloses that figure 1 illustrates a “retracted” position. Referring to *Tao* figures 1-4, the hinge connection 43 coupling panels 18 and

20, and hinge connection 41 coupling panels 14 and 16, would not permit the *Tao* panel 12 to be oriented in a position *behind* display assembly 52. Since *Tao* does not disclose a position of the display shield being “behind the display” as recited in claims 1 and 17, or, “orienting the display shield to be substantially adjacent to and substantially parallel to a back of the display enclosure” as recited in claims 8 and 10, *Tao* does not anticipate claims 1, 8, 10 or 17, as amended, and the rejection should be withdrawn for this reason alone.

c. Claims 5-7, 9, 11, 15, 16 and 18-20

In the Office Action at page 6, claims 8 and 10 are expressly rejected. At page 7, claim 15 is expressly rejected. However, the recited claim language does not appear to correspond to the claim language of claims 8, 10 or 15. Rather, the claim language recited in the Office Action appears to correspond to claims 9, 11 and 16, respectively. Accordingly, to advance prosecution of the application, Applicant will assume that the detailed rejection language identifying claims 8, 10 and 15 are merely typographical errors, and will assume that claims 9, 11 and 16 were intended to be rejected at pages 6 and 7 of the Office Action. (If the Applicant’s assumption above is incorrect, Applicant requests that the Examiner clarify the rejection in the next Non-Final Office Action, or alternatively, revise the present Office Action and provide an extended time period for response to the revised Office Action.)

Because independent claim 1 is allowable over the cited art of record, dependent claims 5-7 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 5-7 contain all features/elements of independent claim 1. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to these claims should be withdrawn.

Similarly, independent claims 8, 10 and 17 are allowable over the cited art of record, dependent claims 9, 11 and 18-20 (which depend from independent claims 8, 10 and 17, respectively) are allowable as a matter of law for at least the reason that the dependent claims 9, 11 and 18-20 contain all features/elements of their respective independent claim.

With respect to claims 15 and 16, since independent claim 13 is allowable over *Tao*, dependent claims 15 and 16 (which depend from independent claim 13) are

allowable as a matter of law for at least the reason that the dependent claims 15 and 16 contain all features/elements of independent claim 13.

Furthermore, with respect to claims 10-11 and 16, Applicant respectfully asserts that *Tao* should not be used as a basis to reject these claims which fall under the scope of 35 U.S.C. 112, 6th paragraph. Applicant refers the Examiner to M.P.E.P. section 2111.01 entitled "Plain Meaning" which states that in such cases, "the specification must be consulted to determine the structure, material or acts corresponding to the function recited." Here, claim 10 recites a means for orienting, claim 11 recites a means for rotating, and claim 16 recites a means for coupling. When *Tao* is interpreted in view of the Applicant's Specification, *Tao* does not disclose, teach, or suggest the above recited "means for orienting" of claim 10, the recited "means for rotating" of claim 11, or the recited "means for coupling" of claim 16. Accordingly, *Tao* does not anticipate claims 10, 11 or 16, and the rejection should be withdrawn for this reason alone.

3. Newly Added Claims 21 and 22

New claims 21 and 22 are based on subject matter that is explicit and/or inherent within the description of the specification and/or the drawings. Applicant submits that no new matter has been added in the new claims 21 and 22, and that new claims 21 and 22 are allowable over the cited prior art. Therefore, Applicant requests the Examiner to enter and allow the above new claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-22 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Raymond W. Armentrout", is written over a horizontal line.

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